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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Chen et al.

Serial No. 08/942,369

Filed: October 1, 1997

For: METHOD AND APPARATUS FOR
CONCURRENTLY DETECTING
PATHOGENIC ORGANISMS AND
ANTIMICROBIAL SUSCEPTIBILITY

Group Art Unit: 1623

Examiner: Marjorie A. Moran

17/C
J. J.
7/13/99
(NE)
10/21/99
msm

SECOND RESPONSE AFTER FINAL UNDER 37 C.F.R. § 1.116

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In consideration of the matters discussed at the Examiner's Interview of June 30, 1999, please enter the following amendments and consider the following remarks. This response is timely filed as a response is due on or before July 28, 1999. These amendments and remarks serve to place the application in condition for allowance or in better form for appeal.

OK to enter

CERTIFICATE OF MAILING
(37 C.F.R. §1.8a)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

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Shannon L. Mounger
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Signature of Person Faxing Paper

Patent
226/213AMENDMENTSIn the Claims:

✓
Please cancel claim 25 and non-elected claims 1-11 and 19, ✓
all without prejudice to further prosecution. ✓

1. Claims 20-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson in view of Sanders, and over Johnson in view of Sanders, and further in view of Brocco.

The rejection is moot with respect to claim 25 in view of the cancellation of claim 25.

With respect to now pending claims 20-24 and 26, the Applicants point out that neither Johnson, Brocco, Sanders, nor any combination thereof provide the information necessary to enable a person of ordinary skill to make and use the media of the present invention. Neither of the references nor any combination thereof, teach the specific ingredients which are necessary to arrive at a uropathogenic specific medium, as that term is defined at page 12 of the specification of the present invention. Therefore, a person of ordinary skill would not be able to make or use any presently claimed media after considering these references. In contrast, the present application specifically teaches at page 19, Table I those ingredients necessary to make and use the media recited in the

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claims. Therefore, the presently claimed invention cannot be obvious over any combination of these references. Furthermore, the Applicants respectfully submit that no motivation exists to make these asserted combinations.

The Applicants have previously explained the nonobviousness of the presently claimed invention (Response After Final, mailed June 3, 1999; Response mailed February 8, 1999, pages 8-12). The Applicants again note that any combination of Johnson, Brocco, Sanders, and Gibson fails to disclose each and every element of the present claims because neither reference, nor any combination thereof discloses a uropathogenic specific medium as that term is defined at page 12 of the specification as a medium which selects for the primary gram negative uropathogens. The term "primary gram negative uropathogens" is defined at page 10 of the specification as that group of organisms responsible for 85-90% of human and veterinary urinary tract infections.

Furthermore, the Applicants again respectfully submit that no motivation exists to make these combinations.

These amendments and remarks serve to further clarify the present invention, and withdrawal of the rejection is respectfully requested.